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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/719,799	11/21/2003	Tim Jensen	9438Q	2947

27752 7590 11/23/2005

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EXAMINER

KIDWELL, MICHELE M

ART UNIT PAPER NUMBER

3761

DATE MAILED: 11/23/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/719,799

Applicant(s)

JENSEN, TIM

Examiner

Michele Kidwell

Art Unit

3761

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 08 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-13 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1 – 13 are rejected under 35 U.S.C. 102(b) as being anticipated by Schoelling (US 2002/0151859).

With respect to claim 1, Schoelling discloses a tampon for feminine hygiene comprising an insertion end, a withdrawal end, a longitudinal axis, and an outer surface (figure 1); said tampon being of compressed fibrous material (abstract); wherein the outer surface of the tampon comprises a plurality of recessed portions (50), each of the recessed portions comprising a length dimension, a first side wall, and a second side wall, said first side wall having a proximal end, an opposed distal end, and a wall dimension extending between the proximal end and the distal end (figure 3), said second side wall having a proximal end, an opposed distal end, and a wall dimension extending between the proximal end and the distal end (figure 3), said proximal ends of the first and second side walls intersecting one another to form a vertex, wherein the first side wall dimension differs from the second side wall dimension (figure 3), wherein the wall dimension of the first side wall varies as measured along at least a portion of the length dimension as set forth on page 3 [0039] and in figure 3.

As to claim 2, Schoelling discloses a tampon wherein the vertex is parallel with the longitudinal axis as set forth in figure 3.

With reference to claim 3, Schoelling discloses a tampon wherein the plurality of vertexes are spirally shaped as set forth in figure 3.

Regarding claim 4, Schoelling discloses a tampon wherein the distal vertexes are evenly spaced as set forth in figure 3.

As to claims 5 and 6, Schoelling discloses a tampon wherein the fibrous material of the tampon has an essentially uniform density, which may also be considered as a varying density, over a cross section of the tampon as set forth in the abstract.

With respect to claim 7, Schoelling discloses a tampon further comprising a core which is highly compressed as set forth on page 2, [0031].

As to claim 8, Schoelling discloses a tampon wherein the withdrawal end further comprises a withdrawal member (35) as set forth in figure 3.

Regarding claim 9, Schoelling discloses a tampon wherein the withdrawal end further comprises a finger indent as set forth on page 3, [0040].

With reference to claims 10 – 13, Schoelling discloses a tampon wherein the wall dimension of the first and second wall varies as measured along at least a portion of the length dimension, which may be considered the entire length dimension, as set forth on page 3, [0039] and in figure 3.

Response to Arguments

Applicant's arguments filed September 8, 2005 have been fully considered but they are not persuasive.

With respect to the applicant's argument that Schoelling does not disclose a tampon wherein the first side wall dimension differs from the second side wall dimension, the examiner disagrees. The examiner contends that the tampon of Schoelling has a first side wall dimension that differs from the second side wall dimension in that the first and second side wall dimensions of Schoelling are on opposite sides of the angle therebetween.

Conclusion

Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**.


See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michele Kidwell whose telephone number is 571-272-4935. The examiner can normally be reached on Monday thru Friday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tatyana Zalukaeva can be reached on 571-272-1115. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Michele Kidwell
Primary Examiner
Art Unit 3761